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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,915	06/13/2005	Michael Mennicken	R.303599-1	5670
2119	7590	08/02/2007		
RONALD E. GREIGG GREIGG & GREIGG P.L.L.C. 1423 POWHATAN STREET, UNIT ONE ALEXANDRIA, VA 22314			EXAMINER FRISTOE JR, JOHN K	
			ART UNIT	PAPER NUMBER
			3753	
			MAIL DATE	DELIVERY MODE
			08/02/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/538,915

Applicant(s)

MENNICKEN ET AL.

Examiner

John K. Fristoe Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments filed 5/9/2007 have been fully considered but they are not persuasive. Applicants' argue that the amendment to claim 18 overcomes the 112 2<sup>nd</sup> paragraph rejection, the examiner disagrees. It is unclear to the examiner if the outlets are formed on the upstroke and downstroke of the valve member or if the outlets are formed only just before impact of the armature. Applicants then argue Takeda does not form outlets prior to impact of the armature, the examiner disagrees. Fluid is capable of flowing over the armature of Takeda prior to impact of the armature. Applicants then argue that there is not mention of a hydraulic damping chamber in Takeda, the examiner agrees in part. Takeda may not specifically mention a hydraulic damping chamber within the specification, however one of ordinary skill can deduce from the Takeda's figures that any fluid that passes over the armature during the upstroke of the armature would inherently hydraulically damp the movement of the armature. Since any changes to the following prior art rejections were necessitated by Applicants' amendment the instant Office action had been made final.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner if the outlets are formed on the upstroke and

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downstroke of the valve member or if the outlets are formed only just before impact of the armature.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18-37 as far as they are definite, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,918,818 (Takeda). Takeda discloses a magnet valve comprising a magnet core (13), a magnet coil (12) surrounding (the lower portion of the coil and the upper portion of the spring) a closing spring (34), a magnet armature (30), a face end (bottom surface of element 13b), outlet openings (within element 13b near element 34 and adjacent 11a in figure 1), a hydraulic damping chamber (between element 30 and element 13 in figure 1), one face end (adjacent element 34 in figure 1), an armature bounce reducing damping face (lower portions of element 18 and 19) made of a non-magnetic material (col. 3, lines 28-29), wherein the damping chamber (between element 30 and element 13 in figure 1) extends in a radial direction and is annular (figure 3), a second end face(outer portion of damping chamber in figure 1), wherein the damping face (lower face of elements 18 and 19), is at a constant spacing (figure 1), wherein the second end face is at an angle (element 19 in figure 4), a lug like projection (18 in figure 1), wherein the non-magnetic material is a plastic material (col. 3, lines 28-29), wherein the non-magnetic material is attached to the core (figures 1 and 4), a first, second, and third annular face portion (different cross sections of elements 18 and 19 starting from the inner end and ending at

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the outer end, wherein the damping face (lower face of element 18 and 19) is let into the core (figure 1 and 4), a graduation is formed (angled face of element 19 in figure 4), a lug like projection (point of element 19), an air gap (lower portion of the angled portion of element 19 in figure 4), and wherein the end face opens and closes by narrowing in a radial direction (depends on which reference point, inner point of the valve or outer point of the valve, as to which way the element 19 is inclined).

Regarding the gluing recited in claims 27-29 and the casting recited in claim 30, the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113).

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926.

The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric S. Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John K. Fristoe Jr./  
John K. Fristoe Jr.  
Examiner  
Art Unit 3753

JKF



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